

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

EFRAIN IRIAS
Plaintiff

vs.

STARFLEET MARINE
TRANSPORTATION, INC.
Defendant

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CAUSE NO. 3:14-cv-00247

DEFENDANT’S NOTICE OF REMOVAL

COMES NOW Defendant Starfleet Marine Transportation, Inc., and pursuant to 28 U.S.C. §§ 1332 and 1446, and without waiving any of its defenses, hereby gives notice of removal of this case from the County Court at Law No. 1, Galveston County, Texas, to the United States District Court for the Southern District of Texas, Galveston Division, and in support thereof, would show the Court as follows:

**I.
INTRODUCTION**

1. Plaintiff Efrain Irias filed this action for alleged personal injuries against Defendant in the County Court at Law No. 1, Galveston County, Texas, on June 3, 2014, and the case was assigned Cause No. CV-0072238.

2. Plaintiff’s Original Petition alleges that Efrain Irias was injured on or about March 23, 2014, while he was a passenger aboard the *Miss Linda Lee*. Exh. C, Pl.’s Orig. Pet. at ¶ 6. Plaintiff alleges causes of action for negligence, negligence per se, and unseaworthiness. Exh. C, Pl.’s Orig. Pet. at ¶¶ 7-8.

3. This Court occupies the district and division in which Plaintiff's Original Petition was filed. *See* 28 U.S.C. § 1446(a).

4. Defendant was served with Plaintiff's Original Petition on July 2, 2014. This Notice of Removal is being filed within thirty days of service and is therefore timely pursuant to 28 U.S.C. § 1446(b).

II. BASIS FOR REMOVAL

5. Plaintiff is an individual who claims to reside in the State of Texas. Exh. C, Pl.'s Orig. Pet. at ¶ 4.

6. Defendant is a foreign corporation with its principal place of business located at 1413 Shrimboat Lane, Mt. Pleasant, South Carolina 29464. Accordingly, Defendant is not domiciled in the State of Texas.

7. Plaintiff seeks damages over \$1,000,000. Exh. C, Pl.'s Orig. Pet. at prayer.

8. Thus, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(2) because there is complete diversity between the parties and the Plaintiff seeks damages in excess of \$75,000.

III. JURY DEMAND

9. Plaintiff has demanded a jury in the county court action. Exh. C, Pl.'s Orig. Pet. at ¶ 10.

IV. NOTICE TO COUNTY COURT AND ADVERSE PARTY

10. As a removing party, Defendant will give prompt written notice of this Notice of Removal as required by 28 U.S.C § 1446(d).

11. Defendant will also file a copy of this Notice of Removal with the clerk of the court of the county court action.

**V.
DOCUMENTS FILED WITH THIS NOTICE**

12. Pursuant to Southern District of Texas Local Rule 81, Defendant files the following documents with the court:

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|-----------|---|
| Exhibit A | An index of matters being filed with this notice (pursuant to Local Rule 81.5); |
| Exhibit B | All executed process in the state court case (pursuant to Local Rule 81.1); |
| Exhibit C | Plaintiff's Original Petition in the state court case (pursuant to Local Rule 81.2); |
| Exhibit D | The docket sheet in the state court case (pursuant to Local Rule 81.4); |
| Exhibit E | A list of all counsel of record, including addresses, telephone numbers, and parties represented in the state court case (pursuant to Local Rule 81.6); and |
| Exhibit F | A copy of the Notice of Removal to Federal Court to be filed with the state court. |

13. Defendant does not file any orders signed by the county judge (pursuant to Local Rule 81.3) because the judge has not yet signed any orders.

**VI.
CONCLUSION**

BASED ON THE FOREGOING, Defendant Starfleet Marine Transportation, Inc. removes this case from the County Court at Law No. 1, Galveston County, Texas, to this Court.

Respectfully submitted,

LEGGE, FARROW, KIMMIT, MCGRATH & BROWN L.L.P.

/s/ Thomas R. Nork

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**ATTORNEY-IN-CHARGE FOR DEFENDANT
STARFLEET MARINE TRANSPORTATION, INC.**

OF COUNSEL:

LEGGE, FARROW, KIMMITT, MCGRATH & BROWN, L.L.P.

Jeanie Tate Goodwin, Fed. ID No. 592456, TBN 24046949

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was forwarded to all counsel of record via certified mail, return receipt requested on this 28th day of July, 2014:

Jason A. Itkin

Cory D. Itkin

Noah M. Wexler

6009 Memorial Drive

Houston, Texas 77007

Via CM/RRR 7196 9008 9111 8323 0187

/s/ Jeanie Tate Goodwin

THOMAS R. NORK

JEANIE TATE GOODWIN